**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE R.BASANT**

**TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929**

**Bail Appl..No. 6866 of 2007()**

**(CRIME NO.83/2007 OF ARALAM POLICE STATION, KANNUR)**

**PETITIONER: 1ST ACCUSED:**

**K.ABDUL AZEEZ @ AZEEZ,**
**S/O.AHAMMED HAJEE, AGED 40 YEARS,**
**KAVUNGAL KANDY HOUSE, KANIYAMPATTA, WAYANAD.**

**BY ADV. SRI.C.P.PEETHAMBARAN**

**RESPONDENT: COMPLAINANT:**

**STATE OF KERALA REPRESENTING S.H.O.,**
**ARALAM POLICE STATION, REPRESENTED BY THE**
**PUBLIC PROSECUTOR, HIGH COURT OF KERALA,**
**ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI. P.RAVEENDRA BABU**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

*KSS*

**R.BASANT, J**

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**B.A.No. 6866 of 2007**

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Dated this the 13th day of November, 2007

**ORDER**

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. Crime has been registered under Sections 498A and 406 IPC on the basis of the private complaint filed by the de facto complainant before the learned Magistrate and referred by the learned Magistrate to the Police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The marriage between the spouses took place on 22.12.96. They are blessed with two children in the wedlock. There is strain in the matrimony. Such strain has prompted the de facto complainant to make false allegations against the petitioner, submits the learned counsel for the petitioner. The petitioner had filed a petition for restitution of conjugal rights and in view of filing of such petition false allegations are being raised against him, submits the learned counsel for the petitioners.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer. He points out that the victim has not suffered any injury. I am

satisfied, in the facts and circumstances of the case, that anticipatory bail can be granted to the petitioner. In coming to the conclusion, I take note of the fact that the arrest and incarceration of the petitioner is likely to mar the possibility of harmonious settlement of the matrimonial dispute. Appropriate conditions can of course be imposed in the interests of a fair, efficient and proper investigation.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 20.11.2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 1 p.m on 21/11/2007 and 22/11/2007 and thereafter between 10 a.m and 12 p.m on all Mondays and Fridays for a

period of one month. Subsequently as and when directed by the Investigating Officer, in writing to do so .

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 20.11.2007, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 20.11.2007.

**(R.BASANT, JUDGE)**

sj

/TRUE COPY/

P.A.TO JUDGE